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**UNITED STATES DISTRICT COURT**  
**DISTRICT OF OREGON**  
**MEDFORD DIVISION**

TINA ESTRADA	)	Case No.
	)	
Plaintiff,	)	COMPLAINT
	)	
vs.	)	
	)	UNLAWFUL EMPLOYMENT
VOLARE HEALTH, LLC	)	PRACTICES
	)	
Defendant.	)	(29 U.S.C. § 215(a)(3); ORS
	)	659A.199)
	)	
	)	JURY TRIAL DEMANDED
	)	
	)	
	)	
	)	

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## **INTRODUCTION**

1. Plaintiff brings this action for monetary relief, damages, costs, and attorney fees for herself to redress injuries done to her by Volare Health, LLC (“Volare” or “Defendant”), and/or officers, employees, or agents of said Defendant in contravention of her federally protected rights in violation of 29 U.S.C. § 215(a)(3) and her state protected rights in violation of Oregon anti-retaliation laws, ORS 659A.199.

2. Because of these violations, Plaintiff seeks compensation, damages, penalties, and interest to the full extent permitted by the FLSA, and Oregon laws.

3. Plaintiff also seeks declaratory, equitable, and injunctive relief.

4. Finally, Plaintiff seeks reasonable attorneys’ fees and costs under the FLSA and Oregon laws.

## **JURISDICTION AND VENUE**

5. The court has jurisdiction over Plaintiff’s federal claims pursuant to 42 U.S.C. § 2000 et seq., 28 U.S.C. §§ 1331, 1343, and supplemental jurisdiction over Plaintiff’s state claims pursuant to 42 U.S.C. § 1367 as the state claims arise from the same nucleus of operative facts as the federal claims.

6. Venue is proper in this judicial district pursuant to 28 U.S.C. § 1391. A substantial part of the events or omissions giving rise to Plaintiff’s claims occurred in this judicial district.

## **PARTIES**

7. The Plaintiff is a resident of the State of Oregon. Plaintiff was employed as a certified nursing assistant (“CNA”) for Volare from approximately February 2023 until on or around July 17, 2023.

8. At all material times herein, Plaintiff was supervised by Defendant's employees or agents and Plaintiff relied on the actual or apparent authority of Defendant's employees, supervisors, and management.

9. Plaintiff is informed, believes, and thereon alleges that Defendant Volare Health, LLC is a Delaware limited liability corporation with its principal place of business in Louisville, Kentucky. Volare was, and still is, regularly engaged in business throughout the United States, including significant business in the State of Oregon. Volare's primary business consists of providing resident and medical care across the country.

10. Plaintiff is informed, believes, and thereon alleges that Volare owns and/or leases property relating to its operation in Oregon. Plaintiff is further informed, believes, and thereon alleges that Volare knowingly contracts with residents from the State of Oregon to perform its patient and resident care business in the State of Oregon. Volare uses Oregon-based CNAs (such as Plaintiff) to assist its patients at locations in the State of Oregon. Plaintiff is further informed, believes, and thereon alleges that Volare expressly instructs its CNAs to assist patients with grooming, dressing, and providing medical care in the State of Oregon.

### **FACTUAL ALLEGATIONS**

11. At all relevant times, Volare was Plaintiff's "employer" within the meaning of the FLSA, and Oregon law.

12. Volare is a chain of care facilities that offer a range of services from nursing care to assistance with daily activities.

13. Volare acquired certain Avalon Healthcare ("Avalon") facilities in Oregon in or around February 2023.

14. Plaintiff previously worked as a CNA for Avalon prior to Volare's acquisition of Avalon's Oregon facilities.

15. On or around July 17, 2023, Plaintiff was informed that she could not return to any Volare facilities and that she was "DNR" (Do Not Rehire) from all Volare facilities.

16. Prior to this incident, Plaintiff brought a lawsuit against Avalon Healthcare for wage and hour violations under the FLSA and Oregon's wage and hours laws. *See Estrada v. Avalon Health Care Hearthstone LLC*, No. 1:21-cv-00688-CL (D. Or.).

17. After Volare discovered her lawsuit filed against Avalon Healthcare, Plaintiff was no longer allowed to work at or return to Volare facilities, including the facilities previously operated by Avalon Healthcare.

18. Volare retaliated against Plaintiff by ending her employment with them due to her filing of a complaint under the FLSA and Oregon's wage and hour laws and her participating in a lawsuit alleging violations of the FLSA and Oregon's wage and hour laws for her time spent working in Avalon Healthcare (now Volare) facilities.

### **FIRST CAUSE OF ACTION**

#### **Retaliation**

#### **29 U.S.C. § 215(a)(3)**

19. Plaintiff re-alleges and incorporates the above paragraphs as though fully set forth herein.

20. Volare violated the provisions of Section 15(a)(3) of the FLSA (29 U.S.C. § 215(a)(3)), by discriminating against Plaintiff for exercising rights protected under the Act.

21. As a result of Volare's violations of the law, Plaintiff has incurred economic damages including but not limited to lost wages (including back pay and front pay), loss of

prestige, and/or loss of future job opportunities, in an amount to be proven at trial. Plaintiff will continue to have lost income and benefits into the future.

22. As a direct and proximate result of Volare's conduct, Plaintiff has suffered and will continue to suffer mental stress, emotional pain, humiliation, inconvenience, and loss of enjoyment of life all to her non-pecuniary loss in an amount to be determined at trial.

23. Volare's conduct had the purpose and effect of creating an intimidating, hostile, and offensive work environment, and had the purpose and effect of unreasonably interfering with Plaintiff's work performance, and otherwise adversely affected her employment opportunities. Plaintiff is entitled to damages, including punitive damages, as set forth in the FLSA, more specifically 29 U.S.C. § 215(a)(3), in an amount to be determined at trial.

24. Plaintiff also seeks equitable relief including an injunction enjoining Defendant from engaging in any employment practice which constitutes unlawful retaliation under federal and/or Oregon law.

**SECOND CAUSE OF ACTION**  
**Retaliation**  
**Pursuant to ORS 659A.199**

25. Plaintiff realleges and incorporates the foregoing paragraphs as though fully set forth herein.

26. ORS 659A.199 provides that "[i]t is an unlawful employment practice for an employer to discharge, demote, suspend or in any manner discriminate or retaliate against an employee with regard to promotion, compensation or other terms, conditions or privileges of employment for the reason that the employee has in good faith reported information that the employee believes is evidence of a violation of a state or federal law, rule or regulation."

27. Volare retaliated against Plaintiff in the terms and conditions of her employment in substantial part for reporting in good faith information Plaintiff believed was evidence of violations of federal and/or state laws, rules, or regulations — the FLSA and Oregon’s wage and hour laws.

28. Volare violated the provisions of ORS 659A.199 by retaliating against Plaintiff for exercising her protected rights.

29. As a result of these violations, Plaintiff is entitled to damages as set forth in Oregon law, in an amount to be determined at trial.

30. Wherefore, Plaintiff requests relief as hereinafter provided.

**PRAYER FOR RELIEF**

WHEREFORE, Plaintiff prays for relief as follows:

- a) For permanent injunctive relief enjoining Volare, its officers, employees, and agents from engaging in any harassment or from retaliating against any employee opposing unlawful employment practices;
- b) Economic damages and future losses, including back pay and front pay, to be determined at trial;
- c) For an award of punitive damages under the FLSA’s anti-retaliation provisions.
- d) For an award of compensatory damages under the FLSA’s anti-retaliation provisions.
- e) For an award of liquidated damages as provided by the FLSA; Oregon Revised Statutes; and/or other applicable law;
- f) For an award of reasonable attorneys’ fees as provided by the FLSA; Oregon Revised Statutes; and/or other applicable law;
- g) For all costs of suit;

- h) For interest on any damages and/or penalties awarded, as provided by applicable law;  
and
- i) For such other and further relief as this Court deems just and proper.

Dated: February 7, 2024

Respectfully submitted,

*/s/ Dana L. Sullivan*

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Attorneys for Plaintiff

**\*admission pro hac vice anticipated**

**DEMAND FOR JURY TRIAL**

Plaintiff hereby demands a jury trial on all claims and issues for which Plaintiff is entitled to a jury.

Dated: February 7, 2024

Respectfully submitted,

*/s/ Dana L. Sullivan*

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